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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,259	02/06/2004	Mark J. Kline	8637C	8666

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THE PROCTER & GAMBLE COMPANY
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EXAMINER

CRAIG, PAULA L

ART UNIT	PAPER NUMBER
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3761

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/774,259

Applicant(s)

KLINE ET AL.

Examiner

Paula L. Craig

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22, 24, 27 and 30-37 is/are rejected.
- 7) ☒ Claim(s) 23, 25, 26, 28 and 29 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 3, 2006 has been entered.

Response to Arguments

2. Applicant's arguments filed November 3, 2006 with respect to Claims 22-37 have been considered but are moot in view of the new grounds of rejection. The indicated allowability of Claim 22 and former Claim 10 is withdrawn in view of the newly discovered reference to Siebers. Rejections based on the newly cited reference follow.

Claim Objections

3. Claims 22-23 and 28-29 are objected to because of the following informalities: In Claim 22, line 19, "fastening clement" should be "fastening element". In Claims 23, 28, and 29, each occurrence, "the hinge line" should be "the hinge line of the first fastening element" or "the hinge line of the second fastening element". Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 22, 24, 27, 30-33, and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,318,555 to Siebers et al.
6. For Claim 22, Siebers teaches an article having a surface fastening system (article is diaper 2 or 48, Figs. 1-10, col. 3, lines 4-19, and col. 5, lines 31-45). The surface fastening system includes a first fastening element including a retaining element and an attached portion joined to the article, with the attached portion being fully or intermittently attached to the article (first fastening element is loop panel 22 of diaper 2, or loop panels 56 or 58 of diaper 48; attached portion is beads 32 of diaper 2 or loop panel base 60 of diaper 48; retaining element is loop members 44; Figs. 1-10, col. 3, lines 4-35, col. 4, lines 46-55, col. 5, lines 17-45). Siebers teaches the first fastening element having a liftable portion extending from the attached portion, with at least about 5% of the retaining element located on the liftable portion, the liftable portion being adapted to be lifted away from the article, and a hinge line positioned between the attached portion and the liftable portion (liftable portion is defined by the unattached portions over spaces 34 of diaper 2, or loop panel flap 62 of diaper 48, Figs. 1-10, col. 3, lines 35-48, col. 4, lines 46-61, col. 5, lines 16-45). Siebers teaches a second fastening element including a retaining element, wherein at least a portion of the retaining element of the second fastening element is configured to be releasably

engageable with at least a portion of the liftable portion of the first fastening element (second fastening element is hook tabs 40 of diaper 2 or hook tabs 50 of diaper 48, retaining element is hook members 42; Figs. 1-10, col. 4, lines 10-42, col. 5, lines 31-45). The second fastening element has an attached portion joined to the article (the attached portion is the portion of hook tabs 40 or 50 which is attached to the ear portion 18, Figs. 1-10, col. 4, lines 10-42, col. 5, lines 31-45). The second fastening element has a liftable portion extending from the attached portion of the second fastening element with at least about 5% of the retaining element of the second fastening element located upon the second fastening element liftable portion, and a hinge line positioned between the attached portion and the liftable portion of the second fastening element (liftable portion is the portion of hook tabs 40 or 50 extending beyond the ear portion 18, Figs. 1-10; note that the liftable portion is fully capable of being moved toward the article or lifted away from it).

7. For Claim 24, Siebers teaches the liftable portion of the first fastening element being configured to be releasably engageable with the liftable portion of the second fastening element (Figs. 1-10, col. 3, line 35 to col. 5, line 45).

8. For Claim 27, Siebers teaches the first fastening element being positioned on the front of the wearer (Figs. 1-10 and col. 3, lines 4-22).

9. For Claim 30, Siebers teaches the article being a disposable diaper (col. 3, lines 1-3).

10. For Claim 31, Siebers teaches the article including a liquid pervious topsheet, a liquid impervious backsheet, and an absorbent core interposed between the topsheet

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and the backsheet (topsheet 6, backsheet 4, and absorbent medium 8, Figs. 2-4, col. 3, lines 4-6).

11. For Claim 32, Siebers teaches opposite side panels and at least two second fastening elements, the second fastening elements being disposed on the opposite side panels so as to be generally attachable in a face to face relationship with at least a portion of the liftable portion of the first fastening element when the surface fastening system is in a fastened configuration (opposite side panels are ear portions 18, the two second fastening elements are the two hook tabs 40 of diaper 2 or the two hook tabs 50 of diaper 48, Figs. 1-10).

12. For Claim 33, Siebers teaches the first fastening element including a flap with a retaining element (flap is loop panel flap 62, retaining element is loop members 44, Fig. 10 and col. 5, lines 5-45).

13. For Claim 36, Siebers teaches the liftable portion of the first and/or second fastening element including an elastomeric portion (col. 5, lines 12-16, Claim 6).

Claim Rejections - 35 USC § 103

14. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Siebers.

15. For Claim 37, Siebers teaches all the limitations of Claim 22, as described above in paragraph 6. Siebers teaches the article being a child's training pant (col. 1, lines 10-14, col. 2, line 66 to col. 3, line 3). Siebers teaches that while the embodiment described in detail is a diaper, this is done for ease of explanation only (col. 3, lines 1-3). Siebers does not expressly teach the first and second fastening elements being pre-

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fastened. However, pre-fastened fastening elements are well known in the art of disposable absorbent articles, particularly for training pants. It would have been obvious to one of ordinary skill in the art for the first and second fastening elements to be pre-fastened.

16. Claims 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siebers in view of Buell (U.S. Patent No. 5,151,092).

17. For Claims 34-35, Siebers teaches all the limitations of Claim 22, as described above in paragraph 6. Siebers does not expressly teach the first fastening element including a masking element or a stiffening element. Buell teaches a first fastening element having a masking element (Fig. 1 designs on landing zone), and a stiffening element (reinforcing strip 116, col. 26, lines 51-55). Buell teaches that the article provides dynamic fit and improved containment (col. 1, lines 10-15). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the article of Siebers to include a masking element or a stiffening element, as taught by Buell, to provide dynamic fit and improved containment.

Allowable Subject Matter

18. Claims 23, 25, 26, 28, and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Interference

19. Note that while U.S. Patent No. 6,764,480 to Tani et al. is not prior art against the present application, its claims are supported by the disclosure of the present application.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paula L. Craig whose telephone number is (571) 272-5964. The examiner can normally be reached on 8:30AM-4:00PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

TATYANA ZALUKAEVA
TATYANA ZALUKAEVA
PRIMARY EXAMINER



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paula L Craig
Examiner
Art Unit 3761

PLC